

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MARCUS KELLEY,

Plaintiff,

Case No. 2:14-CV-117

v.

HON. GORDON J. QUIST

KIMBERLY ATKINSON, et al.,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

On November 4, 2016, Magistrate Judge Greeley issued a Report and Recommendation (R & R) recommending that Plaintiff's motion to correct and/or modify clerical error be granted. Magistrate Judge Greeley further recommended that Defendant Lewis be reinstated as a Defendant in this case, that Defendant Lewis be substituted for Defendant Wilson in the amended complaint (ECF No. 60), and that Defendant Wilson be dismissed. (ECF No. 80 at PageID.328.)

Defendant Lewis has filed an Objection to the R & R, arguing that rather than merely substituting Lewis for Wilson, the magistrate judge should have required Plaintiff to comply with the previous two orders directing Plaintiff to file an amended complaint setting forth only his claims against Defendant Lewis. Pursuant to 28 U.S.C. § 636(b), upon receiving objections to a report and recommendation, the district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." After conducting a de novo review of the R & R, Lewis's Objection, and the pertinent portions of the record, the Court concludes that the R & R should be adopted.

Essentially, the magistrate judge ordered that Defendant Lewis be substituted for Defendant Wilson. The delay in this case resulted from Plaintiff's uncertainty as to the proper Defendant.

Substituting Defendant Lewis for Defendant Wilson, rather than requiring Plaintiff to again amend his complaint, will not prejudice Defendant Lewis. Plaintiff's claim or claims are against whomever handled Plaintiff's grievance—apparently now confirmed to have been Defendant Lewis. Defendant Lewis can ascertain Plaintiff's allegations against her simply by looking to the allegations against Defendant Wilson.

Therefore,

IT IS HEREBY ORDERED that the November 4, 2016 Report and Recommendation (ECF No. 80) is **ADOPTED**, and Plaintiff's motion (ECF No. 79) is **GRANTED**.

IT IS FURTHER ORDERED that Defendant Lewis is substituted for Defendant Wilson, and Defendant Wilson is **DISMISSED** from the case.

Dated: December 7, 2016

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE